

Notice of Allowability

Application No.

10/687,546

Examiner

Deborah K. Ware

Applicant(s)

STROBEL ET AL.

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/6/07.
2. ☒ The allowed claim(s) is/are 1-10 and 12.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☒ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☒ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 4/19/07.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on April 19, 2007, Karri Kuenzli Bradley Ph.D. requested an extension of time for 2 MONTH(S) and authorized the Director to charge Deposit Account No. 02-4550 the required fee of \$225.00 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the specification:

At page 1, line 2, after "119" inserted --, now abandoned-- .

In the claims:

Claim 6, line 1, after "plant" inserted --or a plant part-- ;

Claim 7, line 1, deleted "said plant is a plant part" and inserted --said plant part is--
- ;

Claim 9, line 1, deleted "naphthalene" and inserted --product further-- ;

Claim 11, canceled.

In the Drawings:

Applicants should label the drawings appropriately as Figure 1, Figure 2, Figure 3, Figure 4, Figure 5, Figure 6 and Figure 7, accordingly on each of the 5 drawing pages

Art Unit: 1651

and provide appropriate titles for each Figure disclosed in accordance with the Brief Description of the Drawings in the specification.

Compliance with Deposit Requirements:

Under 37 CFR 1.809(c)(d) an applicant is required to make a deposit of biological material with a recognized IDA within three months after the mailing date of the Notice Of Allowance and Fee(s) Due. The period for satisfying this requirement is not extendible under § 1.136 and failure to make the needed deposit of *Muscodor vitigenus* designated 2116 will result in abandonment of the application for failure to prosecute. The deposit statement in the specification, and all claims which refer to the instant *Muscodor vitigenus* 2116 by name, must be amended to include the deposit accession number. In the instant application claims 1, 5, 8 and 10 must be amended to recite the appropriate deposit accession number. These amendments should be submitted before the payment of the issue fee as an Amendment After Allowance under 37 CFR 1.312 and should include as a separate paper a notice that the material has been accepted for deposit under the Budapest Treaty. Finally, the statement of deposit in the specification shall contain:


- (1) The accession number for the deposit(s);
- (2) The date of the deposit(s);
- (3) A description of the deposited biological material sufficient to specifically identify and to permit examination; and
- 4 The name and address of the depository. (See 37 CFR 1.809(d)).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah K. Ware whose telephone number is 571-272-0924. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1651

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Deborah K. Ware
April 25, 2006


IRENE MARX
PRIMARY EXAMINER